

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                   |   |                                 |
|-------------------|---|---------------------------------|
| JAMAR WARREN,     | § |                                 |
|                   | § | No. 529, 2010                   |
| Defendant Below-  | § |                                 |
| Appellant,        | § | Court Below: Superior Court     |
|                   | § | of the State of Delaware in and |
| v.                | § | for New Castle County           |
|                   | § |                                 |
| STATE OF DELAWARE | § | ID No. 0611015891               |
|                   | § |                                 |
| Plaintiff Below-  | § |                                 |
| Appellee.         | § |                                 |

Submitted: December 3, 2010

Decided: January 31, 2011

Before **STEELE**, Chief Justice, **BERGER**, and **RIDGELY**, Justices.

***ORDER***

This 31<sup>st</sup> day of January 2011, it appears to the Court that:

(1) Defendant-Below/Appellant, Jamar Warren, appeals from a Superior Court determination that Warren violated his probation. Warren contends that the Superior Court erred in refusing to consider the merits of his motion to suppress prior to his violation of probation (“VOP”) hearing. We find no merit to Warren’s appeal and affirm.

(2) While conducting surveillance in Wilmington one morning, Detective Jeffrey Silvers observed two males enter an alley and then exit it one minute later. One of those males left the area, and the other male got into a car with two other males. Silvers directed assisting units to follow the car. When the car parked on

its own accord, the assisting officers observed the three males, including Warren, who was in the front passenger seat.

(3) The assisting officers also observed “clear-plastic bag[s] consistent with packaging drugs for sale on the rear seat and also on the center console . . . .” One of the assisting officers removed Warren from the car and conducted a pat down search. During that search, the officer “felt a hard object in [] Warren’s buttocks.” He removed the object -- 9.5 grams of cocaine. After transporting Warren to a nearby police station, officers discovered additional cocaine and plastic bags, as well as marijuana that Warren had concealed.

(4) Warren was arrested and charged by indictment with trafficking in cocaine; possession with intent to deliver a narcotic schedule II controlled substance; maintaining a vehicle for keeping controlled substances; possession of a controlled substance within 300 feet of a park recreation area, church or synagogue; tampering with physical evidence; possession of drug paraphernalia; and possession of marijuana. As a result of the arrest and subsequent charges, Warren was also charged with VOP.

(5) At the VOP hearing, defense counsel asked the Superior Court whether Warren was entitled to a suppression hearing. The Superior Court replied: “[I]t is my belief that [] there other cases that say that . . . suppression . . . simply doesn’t apply at [VOP] Hearings, and I’m prepared to adhere to that so that you

have a record.” The Superior Court then found Warren to be in violation of his probation based on the evidence defense counsel sought to suppress and sentenced Warren to 364 days at Level V. This appeal followed.

(6) Here, the issue is whether Warren was entitled to a suppression hearing prior to his VOP hearing. He argues that, if the Superior Court had held a suppression hearing, he could have shown that the police had violated his Fourth Amendment rights in obtaining the evidence that supported his VOP. We have not been required to address this issue because of subsequent developments at the trial court level. For example, in *Brown v. State*,<sup>1</sup> the defendant raised the same argument, but thereafter pled guilty. The subsequent guilty plea to a new criminal charge led us to conclude that the defendant’s appeal from the finding of a probation violation, arising from the same criminal conduct to which he pled guilty, was “wholly without merit and devoid of any arguably appealable issue.”<sup>2</sup> Here, Warren pled guilty to the underlying charges. Therefore, his appeal is without merit and devoid of any appealable issue.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:  
/s/ Henry duPont Ridgely  
Justice

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<sup>1</sup> 901 A.2d 119, 2006 WL 1458138 (Del. 2006) (TABLE).

<sup>2</sup> *Id.* at \*2.